Al Hadaf
CHIDUSHIM & BIURIM ON THE DAF YOMI
על הדף
חידושים וביאורים על דף היומי

Eruvin 2/ No.15/ Oct. 25 '05 • Edited by Rabbi Zev Dickstein• עירובין דף כא-לט/ כד תשרי תשס״ו

דף כא.
לא הותרו פסי ביראות אלא לבהמת עולי רגלים בלבד

1] • We learned above (Mishna 17b) that it is possible to convert the area surrounding a public well into a *reshus hayachid* (thereby permitting one to draw water from the well) by making a rudimentary enclosure called " פסי ביראות" consisting of four דיומדין (corner boards) around the area surrounding the well. (See Al Hadaf above on דף יח.)

The Gemara (end of 20b) says that the sages permitted one to draw water from a well within this type of rudimentary enclosure (פסי ביראות) only for the sake of feeding animals belonging to עולי רגלים - travelers on their way to Yerushalaim for the festivals. However, under ordinary circumstances one may not draw water from a well located in a *reshus horabbim* unless the area is enclosed by substantial *mechitzos* - partitions (or by a tzuras hapesach).

The sages limited the use of פסי ביראות to drawing water for animals; they did not permit one to rely on פסי ביראות when drawing water for humans to drink. The sages instituted the leniency of פסי ביראות for the sake of feeding animals because animals cannot drink directly from the well on their own and therefore it is necessary to draw water for them. A person, on the other hand, can climb into the well [by bracing himself against the walls of the well] and take himself a drink without drawing water from the well.

In addition to drawing water for animals of עולי רגלים, we find several other cases in which one may rely on פסי ביראות:

(a) The Gemara says that if the well is wide and it is not possible for a person to brace himself against its walls and climb down, he is permitted to rely on the פסי ביראות to draw water for himself.

(b) The Gemara says that the sages permitted Torah students in Bavel to rely on פסי ביראות when en route to study at a Yeshiva. [There is one version in the Gemara which prohibits פסי ביראות in Bavel due to the fact they had abundant water and travellers did not have to rely on roadside wells for their water supply.[1]]

(c) Rashi and other Rishonim comment that פסי ביראות may be used by people travelling for any mitzvah purpose (in a place where such travellers are commonplace).

(d) Tosfos (ד״ה מידי, second *p'shat*) and the Rashba suggest that once there are פסי ביראות (which were constructed for the sake of feeding animals from the well), people are permitted to rely on the פסי ביראות and draw water for themselves as well. The Rashba adds that once the פסי ביראות are erected, they may be used by all people - even by those who are not travelling for a mitzvah. He argues that the sages would not declare the area within the פסי ביראות to be a *reshus hayachid* for some people but not for others, for that would seem very odd. He says, therefore, that as long as the פסי ביראות were erected for a valid reason (i.e., to feed the animals of the עולי רגלים), everyone is permitted to rely on them.[2]

2] The Gemara on 20a cites Ravin who questioned whether it is permitted to carry within פסי ביראות even if the well dries up on Shabbos. He reasoned that since the hetter (leniency) of פסי ביראות was given for the purpose of drinking water, if the water supply dries up, perhaps the פסי ביראות are no longer considered valid *mechitzos*.

The Kehillos Yaakov[3] deduces from this Gemara (Ravin's query) that under normal circumstances (i.e., when the well is operational) it is permitted to carry all types of items within the פסי ביראות enclosure, not only water. If carrying within פסי ביראות is limited to drawing water, then there would be no point in Ravin's question. If someone's well dries up it would seem obvious that he cannot carry there since there is no water for him to carry there. Evidently, argues the Kehillos Yaakov, once the sages instituted the use of פסי ביראות (for the sake of feeding animals) they permitted all types of carrying within that enclosure (as long as the well is still operational).[4]

דף כב.
דכולי עלמא נמי מקיף אוקיינוס

R' Yehuda (Mishna 22a) asserts that if there is a public road passing through an area enclosed by פסי ביראות it voids the effectiveness of the enclosure. He says that one may not draw water from such a well until the road is diverted to the side of the פסי ביראות.

The Rambam[5] rules in accordance with the Chachamim who disagree with R' Yehuda and maintain לא אתי רבים ומבטלי לה מחיצתא - public traffic does <u>not</u> nullify the efficacy of a *mechitzah*.[6]

The Gemara notes that certain countries, such as Eretz Yisrael and Bavel are surrounded on several sides by mountain ranges, canyons and rivers (which halachically are considered *mechitzos*) and their cities are nevertheless classified as a *reshus horabbim*! In fact, notes the Gemara the entire world is surrounded by oceans, and the banks of the ocean are considered *mechitzos* (since they are מתלקט י' מתוך ד' - they slope more than ten *tefachim* within four *amos*).

The Gemara does not clearly explain why indeed the *mechitzos* formed by the world's natural slopes and mountain ranges do not render the entire world into one large *reshus hayachid*.

Tosfos explains that according to R' Yehuda, rivers, canyons and mountain ranges are not classified as valid *mechitzos* because they do not prevent the public from regularly passing through them (by means of roads and ships) and R' Yehuda is of the opinion אתי רבים ומבטלי מחיצתא - public traffic nullifies the efficacy of *mechitzos*.[7]

The Chachamim, however, disagree with R' Yehuda's rule and maintain that public traffic does <u>not</u> nullify a *mechitzah*. Thus, according to the Chachamim, an explanation is still required as to why the entire world is not halachically considered a *reshus hayachid*.
Several answers are suggested:
1. Tosfos postulates that the Chachamim dispute R' Yehuda's rule of אתי רבים ומבטלי מחיצתא only with regard to man-made *mechitzos*. However, with regard to naturally-formed *mechitzos*, such as mountain ranges and slopes, the Chachamim agree that we say אתי רבים ומבטלי מחיצתא.
2. In a variation of Tosfos' answer, the Tosfos Horosh explains that the Chachamim agree with R' Yehuda (that *mechitzos* traversed by the public are not valid) with regard to natural *mechitzos* which enclose <u>a very large area</u>. Thus, oceans and mountain ranges are not valid *mechitzos* because they have the following three deficiencies: (a) They are traversed by the public, (b) naturally formed, and (c) enclose a very large area.
3. The Ritva postulates that there is a limit to the area for which <u>any</u> type of *mechitzos* can function. *Mechitzos* are not valid if they enclose an expanse so large that a person standing within them does not even perceive he is surrounded by *mechitzos*. [The Chayai Odam[8] suggests that the maximum distance between

mechitzos allowed by the Ritva is perhaps sixteen *mil* (approx. 12 miles). However, he admits he is not certain about this.][9]

According to the Ritva, any *mechitzah* enclosing a very large area is not valid - even if it is a man-made *mechitzah* and there is no public road passing through them.

Conversely, according to Tosfos, the distance between *mechitzos* does not seem to be a deficiency (at least for man-made *mechitzos*). The only consideration seems to be whether they are naturally formed and traversed by the public. [Some commentators maintain that Tosfos is in agreement with the Tosfos Horosh. They say that Tosfos does not mean to disqualify natural *mechitzos* which are traversed by the public unless they enclose a very large area.[10]]

דף כג:

קרפף שנזרע רובו הרי הוא כגינה

The term קרפף שלא הוקף לדירה used by the Mishna refers to an area not used for daily living purposes, such as a place outside the city used for storing wood (Rashi 18a).

The sages prohibited carrying in a מקום שלא הוקף לדירה - in a place not designated for residential use (such as a *karpif*) - even if enclosed by fences (because it resembles a *reshus horabbim* due to its size and usage[11]). The *halacha* follows R' Akiva (Mishna 23a) who says that carrying is prohibited in a *karpif* only if it is larger than a בית סאתיים (two *beis se'ah*, which is 5,000 square *amos*). The Gemara (23b) bases this law on the fact that the courtyard of the Mishkan was the size of two *beis se'ah*. The Aruch Ha*shul*chan[12] explains that the *mishkan* was not designated for human use but rather as a dwelling place for the *shechinah* (Divine presence). Thus it is classified as a מקום שלא הוקף לדירה. Based on the fact that the *chatzeir* hamishkan (where they carried there on Shabbos) was two *beis se'ah* [and not larger], the sages permitted carrying in a מקום שלא הוקף לדירה that does not exceed two *beis se'ah*, the size of the *chatzeir* hamishkan.

The Mishna on 18a states that carrying is permitted in a דיר (a corral where animals graze) regardless of its size because it is classified as a מקום הוקף לדירה - place enclosed for residential use; it does not have the status of a קרפף שלא הוקף לדירה.

The Biur *Halacha*[13] cites three possible reasons as to why an animal-corral is considered הוקף לדירה - enclosed for living purposes.

(a) The Rashba indicates that not only human usage, but even animal usage constitutes הוקף לדירה.[14]

(b) Rashi (22a, ד"ה כל אויר) states that a place which a person frequents is considered a place used for דירת אדם (human dwelling). Thus, since the shepherd frequently enters the corral to care for the animals, a corral is classified as a place for human dwelling.

(c) Rabbeinu Yehonason states that the Mishna is referring to a דיר which includes a watchman's hut. Such an enclosure not only serves animals but the needs of people as well (cf., Rashi 19b, ד"ה דיר).[15]

The Gemara on 22a states that a field with a watchman's hut is not considered הוקף לדירה since the watchman's primary purpose is to watch the fields, and not to dwell there. Therefore, if the field is larger than בית סאתיים it is prohibited to carry there.

The Noda B'Yehuda[16] remarks that this Gemara seems to contradict Rabbeinu Yehonason, for the Gemara says that a watchmen's hut does not change the status of the area to a מקום שהוקף לדירה since the hut's primary purpose is not for dwelling.

In answer, the Noda B'Yehuda suggests that the Gemara is referring to a hut that is only intermittently used by the watchmen, whereas Rabbeinu Yehonason is referring to a hut that is used to house the watchmen twenty-four hours a day. An area in which there is a hut that is used-full time by the watchmen is considered הוקף לדירה.

2] The Noda B'Yehuda[17] was asked whether one is permitted to carry on Shabbos in a large zoo or perhaps a zoo is classified as a

מקום שלא הוקף לדירה (a non-residential area) where carrying is forbidden (if larger than a בית סאתיים).

It was suggested that a zoo is comparable to a דיר and is considered הוקף לדירה since it serves the needs of animals (see Rashba above).

The Noda B'Yehuda, however, rejects this comparison. Even if a דיר (used for domesticated animals) is considered הוקף לדירה, a zoo which houses wild animals is certainly <u>not</u> considered הוקף לדירה since humans cannot live in harmony with wild animals such as lions and bears.

Moreover, even if there is a building inside the zoo used by the zookeeper, the zoo would still be classified as a מקום שלא הוקף לדירה unless the zookeeper lives in the building twenty-four hours a day (as above).[18]

דף כד.
נזרע רובו הרי הוא כגינה ואסור
הוא מיעוטא שרי

1] The Gemara (24b) says that a vegetable garden is not suitable for dwelling purposes and is therefore classified as a מקום שלא הוקף לדירה. Consequently, if one plants a vegetable patch in his yard which covers an area larger than a בית סאתיים, it is forbidden to carry there because of the law of קרפף/מקום שלא הוקף לדירה (see above). If there is no partition between the garden and the rest of the yard, it is forbidden to carry anywhere in the entire yard since the yard is פרוץ למקום האסור לו - entirely open to a prohibited area (i.e., the garden).

The Gemara says that trees are different from vegetation, because people enjoy walking and relaxing between the trees. Therefore, if one designates a large area in his yard for trees, the yard retains its status as an area that is הוקף לדירה - enclosed for residential use - and carrying there is permitted.

Rava (end of 24a, as explained by Ameimar) states that water which is fit for drinking has the same status as trees. Thus, if one's yard is flooded with water, it is <u>not</u> rendered a prohibited *karpif* (even if it covers an area larger than a בית סאתיים). However, if the water is filthy and unfit for drinking then it has the status of vegetation and it renders the yard a *makom shelo hukaf l'dirah* (provided the water is ten *tefachim* deep and covers an area larger than two *beis se'ah*).[19]

The T'shuvos Shoel U'Meishiv[20] maintains that a flower garden is the same as a vegetable garden (זרעים). Therefore, he rules that if one plants a large flower garden in his yard, it is prohibited to carry in the yard on Shabbos (unless he cordons off the garden).

Many Achronim[21] disagree and maintain that a flower garden is comparable to a wooded area with trees and does not disrupt the residential status of the yard since people enjoy strolling in a flower garden.

2] The Rosh[22] suggests that the above *halacha* about a garden pertains only to a garden in a *karpif* (which is an area not frequently used for daily living purposes). However, if one plants a garden in his חצר (courtyard in front of his house), the garden does not cause the entire yard to be classified as a מקום שלא הוקף לדירה since the *chatzeir* is an area constantly used for daily living needs. Thus, he rules that even if one has a large garden in an [enclosed] *chatzeir*, he is permitted to carry in the *chatzeir*.

Many Rishonim[23] disagree with the Rosh and do not distinguish between a *chatzeir* and other types of enclosures. The *Shul*chan Aruch[24] follows the stringent view of these Rishonim. Accordingly, if within a walled city there is a large area which is unsuitable for residential purposes (or for strolling), such as a swamp, vegetable garden or sowed fields, it is forbidden to carry anywhere in the city even though the city is enclosed - unless the non-residential area is cordoned off from the rest of the city.

The Chacham Tzvi[25] rules that בשעת הדחק - in cases of great need - one may rely on the opinion of the Rosh and carry within a walled city even though it contains large non-usable areas.

The Divrei Malkiel[26] maintains that a large vegetable patch renders one's yard a

מקום/קרפף שלא הוקף לדירה only if the vegetables were planted after the yard-wall was erected. However, if one initially had a vegetable garden in his yard and then he erects a wall around his yard afterwards with the intent to enclose his yard for דירה - living purposes - the yard is classified as הוקף לדירה and carrying is permitted, despite the large vegetable garden. Likewise, if the wall (or *eruv*) of the city was erected subsequent to the existence of a large swamp or garden inside the city, the city is classified as הוקף לדירה and carrying in the city is permitted despite the presence of a large unusable area within the city walls.[27]

דף כה.
הרחיק מן הכותל ועשה מחיצה

As stated above, an area that was enclosed for storage or other non-residential purposes is called a קרפף שלא הוקף לדירה (or מקום שלא הוקף לדירה) and carrying there is prohibited if the area is larger than two *beis se'ah*. The "לא הוקף לדירה" status depends on the area's initial designation at the time the *mechitzos* were erected. If subsequent to enclosing a non-residential area, the owner decides to use the area for residential purposes (e.g., he builds a house there), the area still retains its original status of a *karpif shelo hukaf l'dirah* since the *mechitzos* were originally erected for the sake of enclosing a non-residential area. Even though one subsequently begins to use the area for residential purposes, carrying would still not be permitted unless new *mechitzos* are erected around the area. [After one erects a second set of *mechitzos* the area attains the classification of a מקום שהוקף לדירה since the second set of *mechitzos* were erected לשם דירה - for the sake of enclosing a residential area.]

[Based on this *halacha*, any large area surrounded by natural *mechitzos* (such as a body of water or cliffs) is classified as a *karpif shelo hukaf l'dirah* since the area was not enclosed לשם דירה - for residential purposes.[28]]

The Gemara says that when building a second set of *mechitzos* לשם דירה one need not demolish the old (non-residential) *mechitzos*. Rather, it is sufficient to erect a new, second set of *mechitzos* within the old *mechitzos*. However, Rabba says that there must be at least three *tefachim* of space between the two sets of *mechitzos*. If not, the new *mechitzah* is viewed as an addition to the old wall and not as a new, independent wall.

The Gemara above on 24a offers another, easier, method of converting an enclosed non-residential area into a *makom shehukaf l'dirah*: One can open a ten-*amah* breach in the existing *mechitzos*, and then close the breach (i.e., by narrowing it to less than ten *amos*). If the owner narrows the breach with the intent to use the enclosed area for residential purposes, it is considered as though he enclosed the entire area לשם דירה.

The Rosh maintains that just as it is sufficient to make a breach of ten *amos* and then fix the breach, so too, building a new ten-*amah* wall at a distance of three *tefachim* from the existing old wall is sufficient.

The Rashba disagrees and maintains that if one wishes to render the area הוקף לשם דירה (without breaching existing walls) he must build a new set of *mechitzos* around the entire area. The Rashba is of the opinion that only in the Gemara's case above on 24a is ten *amos* significant because a ten-*amah*-plus breach nullifies the efficacy of a *mechitzah*. Therefore, if the old walls have a breach of more than ten *amos* they are considered non-existent and then when the breach is fixed לשם דירה, the entire area is classified as a makom shehukaf l'dirah. However, if the old wall is left standing then the only way to render the area as הוקף לדירה is to erect a new set of *mechitzos* within the old *mechitzos* (at a distance of three *tefachim*).

דף כו.
תלמיד חכם שחלה מושיבין ישיבה על פתחו

As related in Melachim II:20, when King Chizkiya took ill Yeshaya Hanavi reported to him that he was destined to die from his illness. Chizkiya immediately prayed and cried out to Hashem, and before Yeshaya had even left the

palace grounds Hashem informed him that Chizkiya's prayers had been answered and that he should notify King Chizkiya that Hashem granted him an extra fifteen years of life.

The posuk indicates that Yeshaya, after originally informing Chizkiya that he would die, did not exit the palace through the regular route, but rather exited through a rear courtyard. R' Yochanan explains the reason for this is that Yeshaya had gathered a group of scholars at the palace to study Torah in an effort to spare Chizkiya's life.

R' Yochanan deduces from this incident that when a *talmid chacham* takes ill it is a good idea to establish a study group (i.e., a Yeshiva) near his room, because Torah study protects against the מלאך המות - the angel of death. [This concept is found in Shabbos 30b where the Gemara relates that Dovid Hamelech, aware that he was destined to die on Shabbos, attempted to study Torah on Shabbos without interruption so that the *Malach haMoves* would not be able to take his soul. In the end, the *Malach haMoves* succeeded in distracting Dovid and interrupting his learning, after which he took his soul.]

In conclusion, the Gemara advises against the idea of establishing a Yeshiva near the entrance to a sick person's room because of a concern that this might *provoke* the *Malach haMoves*.

There are two explanations found in Rashi, depending on the גירסא - textual reading - of Rashi:

(a) According to the Ein Yaakov's version of Rashi, the concern is that the *Malach haMoves* might be incited by the fact that the *talmidei chachamim* are trying to resist him and prevent his entry. This might provoke the *Malach haMoves* to take the sick man's life even more quickly.

(b) According to the version of Rashi printed in our Gemara, the concern is that the *talmidei chachamim* might quarrel between themselves (regarding learning matters), and the quarreling may precipitate the arrival of the *Malach haMoves*.

The Maharsha asks, if indeed establishing a Yeshiva near a sick person is a poor idea as the Gemara concludes, why did Yeshaya establish such a Yeshiva for Chizkiya's sake?

The Maharsha answers that Chizkiya's situation was different because Yeshaya prophetically knew that Chizkiya was fated to die and that his days were limited in any case. Since Yeshaya knew that the *Malach haMoves* was en route to take Chizkiya's soul, he felt that Chizkiya can only gain from the establishment of the Yeshiva because this would at least delay Chizkiya's death sentence.

Alternatively, R' Eliezer Moshe of Pinsk explains (based on version B of Rashi) that the *talmidei chachamim* in the earlier generations, such as those in the times of Chizkiya Hamelech, were on a higher level of Torah scholarship than those in the later generations. Yeshaya was confident that the Torah scholars studying in Chizkiya's palace would not get involved in disputes because they had a common understanding of the Torah as taught to them by their teachers. Thus, there was no danger that they would precipitate the arrival of the *Malach haMoves*. The Gemara advises against this practice in later generations when the understanding of Torah is not so clear and disputes between Torah scholars are commonplace.

דף כז.

בכל מערבין, והא איכא כמיהין ופטריות

• As explained above on דף יז, if one needs to walk past the 2,000-*amah* Shabbos boundary, he must place an *eruvei techumin* at a distance from his place of residence (within 2,000 *amos*) in the direction he wishes to travel. By doing so prior to Shabbos he is permitted to walk 2,000 *amos* past the site of his *eruv* on Shabbos.

The *eruv* must consist of sufficient food for two meals (Mishna 82b). The Mishna (26b) explains that any type of food, except water and salt, may be used for an *eruv*. Rashi (citing the Gemara on 30a) explains that water and salt לא איקרי מזון - are not called [nourishing] food. Rashi explains that the concept of the *eruv* is that we consider the individual's dwelling place

to be where his food is located - and this idea is applicable only to מידי דמזון - foods that satiate and nourish. [The Rambam[29] explains that while water does not contain nourishment it functions to convey the nourishment (of other foods) to the necessary parts of the body.][30]

Similarly, states the Mishna, all types of food may be purchased with money of *maaser sheni* except for salt and water. [*Maaser sheni* is the second tithe that is separated from produce grown in Eretz Yisrael. *Maaser sheni* must be eaten in Yerushalaim or it must be redeemed for money. The money used to redeem *maaser sheni* is taken to Yerushalaim and it must be used to purchase food there.]

The Gemara (27a) states that כמיהין ופטריות - mushrooms - are an exception to the Mishna's rule and there are several explanations for this:

(a) Tosfos (ד״ה מאן) explains that mushrooms are unfit for an *eruv* because they cannot be eaten raw and an *eruv* must be edible.

The Vilna Gaon[31] rejects this explanation, noting that the Gemara below (28b and 29a) lists other foods - such as beets, wheat and barley - which may not be used for an *eruv* in their raw state because they are not edible unless they are cooked. Why then, asks the Vilna Gaon, does our Gemara single out specifically [raw] mushrooms as being unfit for an *eruv*?

(b) The Rambam[32] explains that even cooked mushrooms are not suitable for an *eruv*, because although they are technically edible, they are very unhealthy and therefore they are not considered מידי דמזון (a nourishing food).[33]

The Vilna Gaon challenges this explanation as well, for the Gemara in Berachos 40b states that one recites the bracha שהכל נהיה בדברו prior to eating mushrooms, thus indicating that mushrooms are considered an ordinary אוכל - food.[34] Moreover, the Gemara in Berachos 47a indicates that Shmuel considered mushrooms as a delicacy (see Rashi ibid. ד״ה אילו מייתי ארדיליא[35]).

(c) The Rashba explains an *eruv* must consist of a food that is commonly served as part of the meal, either as the main course or as a side dish. Since mushrooms (whether raw or cooked) are seldom served as part of a meal, they are not suitable for an *eruv*.

The Vilna Gaon disagrees with this explanation as well, asserting that since [cooked] mushrooms are an edible food they are suitable for an *eruv*.

(d) The Vilna Gaon explains that when the Gemara says that mushrooms are an exception the Mishna's rule, the Gemara is referring to the latter *halacha* of the Mishna concerning *maaser sheni* and not to the law of *eruv* (because in the Vilna Gaon's opinion mushrooms are indeed valid for an *eruv*).[36] Indeed, the Vilna Gaon cites a braysoh in Toras Kohanim[37] which states that mushrooms may not be purchased with *maaser sheni* money.[38]

דף כח
אין מערבין בכפניות

• Food that comes in contact with a tamei person or sheretz (one of eight species of crawling creatures delineated by the Torah, Vayikra 11:29) becomes tamei - ritually impure. Inedible fruit is not classified as a food and is not susceptible to tumah. With regard to the law of *eruv* too, only something that has the status of food is suitable for an *eruv*.

Rav Yehuda (28a) cites Rav Shmuel bar Sheilas who said in the name of Rav that כפניות - unripe dates - are <u>not</u> suitable for an *eruv*, thus indicating that they are not classified as food (since they are bitter and are not edible).

The Gemara (28b) cites a braysoh which states that כפניות <u>are</u> susceptible to tumah, thus indicating contrary to Rav, that unripe dates are classified as food.

In answer, the Gemara explains that the laws of *eruv* and tumah have different criteria for determining what is considered food. With regard to tumah susceptibility, even bitter fruits such as כפניות are classified as food since they can be sweetened through cooking.

In contrast, an *eruv* requires food that is edible straightaway (at the onset of Shabbos when the *eruv* takes effect).

The Gaon Yaakov[39] cites the Ritva (26b) who explains that an *eruv* must be fit to be eaten for one's Shabbos meal, and since one may not cook on Shabbos the *eruv* must consist of food fit to be eaten in its present state without having to cook it.

According to the Ritva's reasoning, unripe dates (or raw vegetables which required cooking) should be suitable for an *eruv* on **Yom Tov**, since it is permitted to cook on Yom Tov.

The Gaon Yaakov infers from the words of Rashi that he disagrees with the Ritva and is of the opinion that an *eruv* must consist of food fit for immediate consumption, regardless of whether its preparation involves a prohibited act. According to Rashi it appears that unripe dates are not suitable for an *eruv* even on Yom Tov when it is permitted to cook them.[40]

דף כט.

כל האוכלין מצטרפין למזון ב׳ סעודות לעירוב

As stated above, the *shiur* (minimum required amount) of food necessary for an *eruv* is two meals worth. Different *shiurim* are required of different foods - depending on the measure in which they are usually consumed. For example, the Gemara says that when using apples for an *eruv* the minimum *shiur* is a *kav* (a measure equaling approx. 2 quarts) because that is the amount of apples people eat for two [full] meals.

On the other hand, with regard to a choice fruit such as peaches, five fruits are sufficient for an *eruv*. Since people commonly eat peaches for desert and 2 1/2 peaches is a typical serving for desert, five peaches is considered two meals worth of peaches. If one uses pomegranates, then two pomegranates suffice because one pomegranate is a typical serving for desert.[41]

Similarly, Rav Yehuda says in the name of Shmuel (end of 29b) that when making an *eruv* with לפתן (foods commonly used to complement a bread meal) one is only required to use the amount of לפתן that is eaten along with two bread meals. The Gemara says, for example, that if one makes an *eruv* with roasted meat, he need not use the amount of meat one would eat when having only meat, because roasted meat is usually eaten in combination with bread. It is sufficient to use the amount of roasted meat that is usually eaten at two bread meals.

The Gemara, citing a Mishna in Meilah 17b, says that all types of food combine to complete the two-meal *shiur* necessary for an *eruv*. Rabba explains that this means that each of the required *eruv* meals may be comprised of many different foods.

The Mishna in Yoma 73b says that the minimum one must eat to be subject to a penalty (for violating the *issur* to eat Yom Kippur) is a ככותבת הגסה (volume of a large date). The *shiur* for beverages is מלא לוגמיו (a cheek-full). The Mishna says that food and drink do not combine to complete a full *shiur*. If one eats a half-ככותבת of food and drinks a half-מלא לוגמיו of beverage he is פטור - exempt - because items which have different *shiurim* do not combine to form a complete *shiur*.

In light of the Gemara in Yoma, the Atzei Almogim[42] asserts that in order for different types of food, such as pomegranates and peaches, which have different *shiurim*, to combine for an *eruv*, the larger of the two *shiurim* must be used. For example, if one uses 2 1/2 peaches for an *eruv* and wishes to complete the *shiur* with pomegranates he must use 2 1/2 pomegranates. One pomegranate will not suffice to complete the *shiur* since items with different *shiurim* cannot combine for a complete *shiur* (unless the larger *shiur* is used).[43] [The Atzei Almogim cites a Gemara in Shabbos (76a) which states that items that have different prescribed *shiurim* can combine to complete the *shiur* required (to be subject to a *chattos* for carrying on Shabbos) if the larger of the two *shiurim* is used.[44]]

The Rashash disagrees and maintains that even though in general the rule is that items with different *shiurim* cannot combine to

complete a *shiur* (especially when the more lenient *shiur* is used), the case of *eruv* is an exception since the laws of *eruv* are *miderabbanan* - of rabbinic origin (see above דף יז). The Rashash is of the opinion that one pomegranate, for example, can combine with 2 1/2 peaches for a complete *eruv*.

דף ל:

מערבין לחולה ולזקן כדי מזונו

The Rabbanan (i.e., the Tanna Kamma) in the Mishna (26b) are of the opinion that a Yisrael (non-Kohen, one who is prohibited from eating *terumah*) may use *terumah* for his *eruv* based on the fact that it is suitable for a Kohen. The Rabbanan are of the opinion that an *eruv* is valid even though it is not חזי ליה - suitable for the person using it - as long as it is suitable to be eaten by others (i.e., Kohanim).

Tosfos (ד״ה תרגומא) remarks that according to the Rabbanan, an elderly man may make an *eruv* even with foods that are not suitable for the elderly (e.g., hard-textured foods difficult to digest) because an *eruv* is valid even if it is not suitable for the maker of the *eruv*.

Sumchas disagrees and maintains that a Yisrael may **not** use *terumah* for his *eruv*. The Gemara (30b) concludes that this is because Sumchas is of the opinion that an *eruv* must consist of food that is חזי לדידיה - suitable for the maker of the *eruv*.

The Gemara says that according to Sumchas an elderly or sick person who generally eats small portions may make an *eruv* in accordance with the amount of food he typically eats for two of his-sized meals (since according to Sumchas the size of an *eruv* is determined according to what is suitable for its maker).

The Rosh[45] is of the opinion that the Rabbanan agree with Sumchas that an elderly person may use less food than an average person for his *eruv*. The Rabbanan who are more lenient than Sumchas and permit one to make an *eruv* with food that is only suitable for others, certainly agree that an elderly person may make an *eruv* with the amount of food sufficient for him, even though it is not sufficient for others.[46]

The Machatzis Hashekel[47] comments that even though, as stated above in the name of Tosfos, an elderly person may use types of food which are suitable only for younger people (according to the Rabbanan), if he uses such food he must use enough for two average-sized meals (i.e., in the amount **younger** people typically eat). We do not employ the leniency of allowing an elderly person to make an *eruv* from food that is suitable only for others in conjunction with the leniency of allowing him to use only enough food for two of his small-sized meals because they are contradictory leniencies (תרתי דסתרי). If he uses a type of food that is only suitable for younger people (with hardy digestive systems) then he must use enough of that food to satisfy the appetite of younger people (for two meals).

Tosfos (ד״ה תרגומא, first *p'shat*) disagrees with the Rosh. Tosfos maintains that the Rabbanan disagree with Sumchas and require an elderly person to use the same amount of food for an *eruv* as all other people. Since the *halacha* is that when an elderly person uses food suitable only for younger people he must use the larger *shiur* of food, i.e., two ordinary-sized meals (as explained above), the Rabbanan are of the opinion that he is obligated to use the standard *shiur* in all cases (so as not to differentiate between cases). [Sumchas permits an elderly person to use a small *shiur* of food because in his view an elderly person must always use food suitable for him and thus there is no need to distinguish between different cases because the smaller *shiur* is always sufficient.]

דף לא:

אין מערבין בטבל הטבול מדרבנן

The Mishna (31a) states that one may not use *tevel* (un-tithed produce) for an *eruv* because it is not suitable for *anyone* (not even for a Kohen).

The Gemara (31b) adds that even טבל הטבול מדרבנן - rabbinic *tevel* - e.g., produce grown in a flowerpot which is subject to the separation of *terumah* and *maaser* only by rabbinic law, may not be used for an *eruv*.

The Gemara in Yevamos 114a states that even if adults are not obligated to restrain a child from committing an *issur*, one may not directly cause a child to commit an *issur*, such as by directly feeding him non-kosher food (לא ספינן ליה בידים), see Al Hadaf ibid., and Shabbos דף קכא.

The Rashba[48] maintains that only an item that is forbidden *min haTorah* may not be fed to a child, but causing a child to commit an *issur miderabbanan* (e.g., feeding him food that is rabbinically forbidden) is permitted.

The Ritva[49] disagrees with the Rashba and adduces proof from our Gemara that even a rabbinically-prohibited food may not be fed to a minor. The Gemara on 30b says that one may make an *eruv* for [the sake of walking past the *techum* on] Yom Kippur even though the maker of the *eruv* may not eat the *eruv* on Yom Kippur, because the *eruv* is suitable for others, namely for children (see Rabbanan's opinion cited above). The Ritva asks, according to the Rashba (who permits feeding rabbinically-forbidden food to a child) an *eruv* of rabbinically-forbidden *tevel* should be valid since it is suitable for children. The fact that the Gemara invalidates rabbinic *tevel* for an *eruv* indicates that such food may not be fed to minors.[50]

The Rashash, in defense of the Rashba, explains that *tevel* is different from other rabbinic *issurim* because there is a prohibition against deriving benefit from the destruction of *tevel* (הנאה של כילוי) as the Gemara in Shabbos 26a says that one may not kindle his lamp with *tevel* oil (see Tosfos ibid., ד״ה אין מדליקין). Even the Rashba would agree that one may not feed rabbinically-forbidden *tevel* to a minor because *tevel* must be destroyed in a manner that does not yield benefit.[51]

דף לב.

בשל תורה אין חזקה שליח עושה שליחותו

The Mishna (31b) says that a minor lacks the legal capacity to make an *eruv*. However, if one sends his *eruv* with a minor and designates an adult as his שליח (agent) to take the *eruv* from the minor and deposit it at the *eruv* site, the *eruv* is valid.

The Gemara explains that the sender may automatically assume that his *shaliach* properly executed his assignment and that he duly deposited the *eruv* as instructed because חזקה שליח עושה שליחותו - there is an assumption that an agent fulfills his assignment.

Rav Nachman (end of 31b) asserts that one may rely on this chazakah (assumption) only with regard to rabbinic laws (such as *eruv*). However, where the *shaliach*'s failure to execute his assignment results in a violation of an *issur min haTorah*, one may not assume that his *shaliach* performed the instructed task until he receives positive verification that the task was performed. According to many authorities[52] the *halacha* follows Rav Nachman (see Tosfos 32a, ד״ה רב ששת).

It is a widely accepted practice for people to designate their rabbi to act on their behalf in selling their *chametz* to a non-Jew before Pesach. Considering the fact that owning *chametz* on Pesach is an *issur min haTorah* (בל יראה, ובל ימצא), the She'arim Metzuyanim B'halacha[53] wonders why it is permissible for one to automatically assume that his rabbi sold his *chametz*. Since an *issur min haTorah* is involved, one should be required to personally verify that the sale of the *chametz* was properly executed.

The She'arim Metzuyanim B'halacha answers that the act of selling one's *chametz* today involves only an *issur miderabbanan* since in any case we rid ourself of *chametz* before Pesach through the act of *bitul* (i.e., the recitation of כל חמירא וכו' whereby we nullify and disown any *chametz*). It is only due to a rabbinic law that one must destroy (or sell) his *chametz* after he performed *bitul*. Therefore, one may rely on a *shaliach* because with regard to rabbinic laws we rely on the assumption that שליח עושה שליחותו.

The T'shuvos V'Hanhagos,[54] takes issue with this approach. He cites the Graz[55] who says that

when one performs *bitul*, presumably, he intends only to nullify *unknown chametz* that might have unwittingly remained in his possession. However, one does not include the *chametz* that he plans to sell to a non-Jew because that *chametz* will not legally be in his possession on Pesach in any case. Consequently, if one's *shaliach* fails to properly execute the sale of the *chametz* it will result in a **Torah** *issur*. Why then, is it permissible to rely on the assumption that one's rabbi will execute the sale?

The She'arim Metzuyanim B'halacha offers another answer which satisfies the T'shuvos V'Hanhagos.

They postulate, based on the words of the Shach,[56] that a *shaliach*'s dependability is called into question only if the messenger is not being paid for his services. However, if one hires an agent, he may rely on him even regarding *issurim min haTorah*. Thus, since the common practice is to compensate the rabbi for the service of selling the *chametz*, one may depend on him to properly execute his assignment.[57]

דף לג.
נתן עירובו באילן

• As explained above on דף יז, if one needs to walk past the 2,000-*amah* Shabbos boundary, he must place an *eruvei techumin* (which consists of two meals worth of food) within 2,000 *amos* of his place of residence in the direction he wishes to travel. By doing so prior to Shabbos he is permitted to walk 2,000 *amos* past the site of his *eruv* on Shabbos.

Above on דף לי and דף לי״א we learned that the food used for the *eruv* must be suitable for eating. Similarly, the *eruv* must be accessible at the onset of Shabbos (during *bein hashmoshos* - the twilight period). The Chachamim (33a) state that if one places his *eruv* on a tree, it is not valid because removing an item from a tree is rabbinically prohibited on Shabbos[58] and thus the *eruv* is inaccessible on Shabbos.[59]

The *halacha*, however, follows Rebbi who disagrees with the Chachamim and asserts that such an *eruv* is considered accessible and is valid. The Gemara (32b) explains that Rebbi is of the opinion that שבותים - rabbinic *issurim* of Shabbos - are only prohibited after nightfall. However, one may perform a *shvus* during *bein hashmoshos* when there is halachic doubt as to whether Shabbos has begun. Since using a tree is only a rabbinic *issur*, Rebbi considers the *eruv* to be accessible during *bein hashmoshos* and he therefore validates such an *eruv*.

Separating *maaser* on Shabbos is an *issur miderabbanan*. The Mishna (Shabbos 34a) states that it is prohibited to separate *maaser* even during *bein hashmoshos*.

Tosfos (above 30b, ד״ה ולפרוש) comments that evidently the Tanna of the Mishna in Shabbos follows the opinion of the Chachamim who maintain that rabbinic *issurim* are prohibited during *bein hashmoshos*.

Other Rishonim, however, find difficulty with Tosfos' approach. They maintain that the Mishna in Shabbos (which makes no mention of a dissenting view - סתם משנה) must be compatible with Rebbi since the *halacha* follows Rebbi.

The Rambam[60] asserts that Rebbi permits the transgression of a *shvus* during *bein hashmoshos* only if it is לצורך מצוה - for the sake of a mitzvah - or בשעת הדחק - for a pressing need.[61] Rav Yosef (31a) states that one may not utilize the device of *eruvei techumin* to extend his Shabbos boundary except for the sake of a mitzvah (such as attending a wedding feast) or for a pressing need. Rebbi permits removing the *eruv* from a tree during *bein hashmoshos* because the *eruv* is necessary for a mitzvah purpose. Rebbi, however, agrees with the Mishna in Shabbos that as a general rule, one may not perform a *shvus* during *bein hashmoshos*.[62]

Alternatively, the Ravad[63] maintains that Rebbi means that an *eruv* that was placed on a tree is valid and is considered accessible since the only impediment to removing the *eruv* is an *issur miderabbanan*.[64] However, he does not mean to say that one is actually permitted to remove the *eruv* from the tree during *bein*

hashmoshos, for, as the Mishna in Shabbos states, *issurim miderabbanan* are prohibited during *bein hashmoshos*.

דף לד:
נתנו בראש הקנה, גזירה שמא יקטום

The Gemara infers from the Mishna that if one places his *eruv* on top of a reed which is attached to the ground [and has never been uprooted], the *eruv* is not valid. [An attached reed is classified as a tree, and we learned on דף לג that it is rabbinically prohibited to remove an item from a tree on Shabbos.]

The Gemara asks why the Mishna invalidates an *eruv* placed on a reed when the previous Mishna on 33a [follows the position of Rebbi who] validates an *eruv* placed on a tree (see above)?

Ravina answers that the sages were concerned that while one is trying to remove his *eruv* from atop the reed he might break off a piece of the reed and violate the *issur min haTorah* of קוצר - reaping. Rashi explains that a reed is more fragile than an ordinary tree and is more likely to snap when reaching for the *eruv*. Therefore, although the sages did not prohibit using a tree during *bein hashmoshos* (according to Rebbi), they prohibited using a reed.[65]

The Ritva asks why the sages are concerned about possibly snapping the reed when reaching for the *eruv*. An unwitting transgression (such as snapping the reed) that occurs during the course of performing a permitted act (i.e., taking the *eruv*) is classified as a דבר שאינו מתכוון - an unwitting act - and according to *halacha* such an act is permitted.

The Biur *Halacha*,[66] in defense of Rashi, explains that although as a general rule one may perform an act even though he is aware of the possibility that a *melacha* might result from his actions (דבר שאינו מתכוון), evidently, such an act is prohibited when the [unintended] forbidden outcome is *very likely* to occur.[67]

Alternatively, the Ritva explains that the sages were not merely concerned that the reed might *accidently* snap. Rather, they were concerned that while trying to obtain an object from on top of the reed one might [forget himself and] deliberately uproot or break the reed, thereby intentionally transgressing the *melacha* of קוצר.[68]

דף לה.
נתנו במגדול ואבד המפתח

1] The Mishna (34b) and Gemara discuss the validity of an *eruv* that is locked in a box for which no key is available. The *halacha*[69] is that if opening the box entails a *melacha min haTorah*, the *eruv* is invalid because it is considered inaccessible. However, if breaking open the box entails a rabbinic *issur*, the *eruv* is valid because, as we learned above, the *halacha* follows Rebbi who permits the violation of a rabbinic *issur* during *bein hashmoshos* (for the sake of a mitzvah).

Thus, an *eruv* locked in a movable box is valid because אין בנין וסתירה בכלים - the biblical *melacha* of סתירה - demolishing - only pertains to permanent non-movable structures, not to vessels.[70] However, an *eruv* locked in a hut is not valid since demolishing a hut entails a violation of the biblical *melacha* of סתירה.

If the key to the hut was left at another location, the validity of the *eruv* depends on whether or not the key can be obtained on Shabbos without violating an *issur min haTorah*. For example, if the key must be transported through a karmelis then the *eruv* is valid since carrying in a karmelis (or from a karmelis to another domain) is an *issur miderabbanan*. However, if the key needs to be carried through a *reshus horabbim* then the *eruv* is not valid.[71]

The Hagaos Chavos Yair[72] asks that even if the *eruv* is locked in a hut it is possible to obtain the *eruv* without violating an *issur min haTorah* because it is possible to ask a non-Jew to break the door or to fetch the key - and requesting a non-Jew to perform a *melacha* is only an *issur miderabbanan* (אמירה לעכו״ם שבות).

The Be'er Yitzchak[73] answers that the maker of the *eruv* must be able to obtain the *eruv*

himself without the assistance of others. If the *eruv* is locked in a hut and one must rely on a non-Jew to bring him the key or to break down the door, the *eruv* is considered inaccessible because one cannot be certain that he will find a non-Jew willing to assist him.[74]

2] The Rambam and *Shul*chan Aruch[75] codify this *halacha* with regard to *eruvei chatzeiros* as well as *eruvei techumin*.[76] [As explained above on דף יז, homeowners who share a common courtyard (or hallway) may not carry there unless they make an *eruv*, called *eruvei chatzeiros*, and place it in one of the homes.]

(a) The She'arim Metzuyanim B'halacha remarks that care must be taken that the neighbors are given a key to the house in which the *eruvei chatzeiros* is placed so as to ensure that the *eruv* is always accessible. In the event that the homeowner with the *eruv* leaves town for Shabbos and the neighbors do not have a key, the validity of the *eruv* would be called into question since it is not accessible to the other homeowners.[77]

(b) The Noda B'Yehuda[78] discusses an *eruv* (*chatzeiros*) that was placed in a *shul* which the government has since boarded up and has forbidden entry due to a delinquent tax bill. He says that even if it is possible to gain entry to the *shul* without transgressing an *issur min haTorah*, the *eruv* is still not valid since practically speaking, people are afraid to violate the government's ban on entering the *shul*.

(c) The Sefer Tekunei Eruvin[79] points out that if one uses canned food for his *eruv* (such as a can of tuna fish or sardines) it is essential that a can-opener be left at the site of the *eruv*, otherwise the *eruv* would be inaccessible on Shabbos and would be invalid.

(d) He also cautions against placing an *eruvei techumin* on private property especially if the owner has posted "No Trespassing" signs there.[80] He suggests that an *eruv* situated on private property (on which the owner forbids trespassing) is akin to an *eruv* in a *shul* which the government has sealed shut.[81]

דף לו.
קסבר ר' יוסי תחומין דרבנן

The Mishna on 35a states that an *eruv* that was destroyed (e.g., burned in a fire) before the onset of Shabbos is not valid (and thus the owner of the *eruv* must remain within 2,000 *amos* of his home). However, if the *eruv* was destroyed after nightfall it is valid (and the owner may travel 2,000 *amos* past the site of the *eruv*). If there is a ספק - doubt - as to whether the *eruv* was destroyed before or after the onset of Shabbos, R' Yosi rules the *eruv* valid because he says as a rule ספק עירוב כשר - an *eruv* in doubt is [assumed to be] valid. This is consistent with the general rule of ספק דרבנן להקל - when there is a doubt concerning a rabbinic law one may conduct himself leniently.

The Gemara on 35b cites a Mishna (Mikvaos 1:2) in which R' Yosi rules that if one who is tamei *miderabbanan* (due to a rabbinic law) performs a doubtful tevilah (i.e., he immersed in a *mikveh* which might have lacked the required measure of water) he is deemed still tamei. The Gemara (36a) questions why R' Yosi rules leniently with regard to a doubtful *eruv* and rules stringently with regard to a ספק טבילה [even in cases of rabbinic tumah].

Rav Huna bar Chininah explains that R' Yosi rules stringently regarding ספק טומאה דרבנן because the laws of tumah are biblically rooted (יש להם עיקר מן התורה). Rashi explains that the difference between a man who is tamei *min haTorah* and one who is tamei *miderabbanan* is not readily discernible. Therefore, to avoid confusion R' Yosi ruled that ספק טבילה is never valid even for an individual who is only rabbinically tamei. In contrast, *eruvei techumin* is entirely of rabbinic origin and R' Yosi saw no reason to rule stringently in cases of doubt. [Although there is an opinion cited on 17b that the law of *techumin* is *min haTorah*, R' Yosi accords with the majority opinion of the Chachamim who say the law of *techumin* is only *miderabbanan*.]

The Rambam,[82] cited above on דף יז, based on the Yerushalmi, rules that although the 2,000-*amah* boundary is *miderabbanan*, there is another, more distant boundary of 12 *mil* (24,000 *amos*) which is *min haTorah*.

The Ramban[83] disagrees and adduces proof from our Gemara that according to the Talmud Bavli there is no biblical Shabbos boundary whatsoever, not even 12 *mil*. He argues that if the 12-*mil* boundary is *min haTorah* then R' Yosi should have ruled stringently regarding a ספק עירוב because the law of *techumin* is biblically rooted (just as he ruled stringently regarding ספק טומאה).

In defense of the Rambam, the Rashba explains that even if walking past the 12-*mil* boundary is an *issur min haTorah*, R' Yosi was not concerned that validating a ספק עירוב will lead to the wrongful validation of a biblical ספק עירוב (i.e., regarding the 12-*mil* boundary) because there is no such thing as a biblical <u>eruv</u>[84] (for an *eruvei techumin* does not function to extend the biblical 12-*mil* boundary).[85]

דף לז
בענין ברירה

1] A person may walk 2,000 *amos* from the place of שביתה - residence - that he designates at the onset of Shabbos. A place of *shevisah* (legal residence) is established in one of three ways:

(a) By default, a person's place of שביתה is his home where he spends Shabbos.

(b) One can change his legal place of residence by placing food (i.e., an *eruv*) at a location within 2,000 *amos* from his home. This is called עירוב בפת (an *eruv* established with bread).

(c) Instead of making an *eruv* with food, one can establish an *eruv*-site by going to the site before Shabbos and remaining there during *bein hashmoshos*. This type of *eruv* is called עירוב ברגליו (an *eruv* established by walking to the site).

If one establishes his place of residence at 2,000 *amos* to the west of his house (by placing an *eruv* there), he may walk a total of 4,000 *amos* to the west (i.e., 2000 *amos* past his *eruv*). However, he forfeits his right to walk to the east of his house (since that would be beyond the 2,000-*amah* radius of his legal place of *shevisah*, which is at the *eruv* site). Once Shabbos arrives, one is not able to change his place of shivsah and cancel his *eruv*.

The Mishna on 36b says that if a person is uncertain as to which direction he will have to travel on Shabbos, he may place **two** *eruvin* before Shabbos, one on either side of the city and stipulate as follows: "If a band of non-Jewish ruffians attack the city on Shabbos from the west (giving reason to flee to the east), then the *eruv* placed towards the east should retroactively be designated as my place of *shevisah*," and vice versa.

The Gemara explains that the validity of such a stipulation is based on the principle of ברירה which states that an act contingent on a future event (or decision) takes effect retroactively when the event occurs. The Gemara cites several Tannaim who dispute the principle of ברירה. According to them one must establish his place of *shevisah* prior to Shabbos without stipulation.

If one buys a barrel containing one hundred *lugim* of un-tithed wine and he does not have utensils on hand with which to separate *terumah* and *maaser*, R' Meir says that he may declare that the two *lugim* that he will define and separate from the barrel at a later time, should be *terumah* now. [Also, the ten *lugim* that he will designate later as *maaser*, should be *maaser* now.] Based on the principle of ברירה (retroactive clarification), the הפרשת תרומה (separation of *terumah*) takes effect immediately, and the individual is permitted to drink from the wine. When this person gets home he clarifies and designates which two *lugim* of wine he wishes to give as *terumah* (and he gives them to a Kohen).

R' Yehuda, R' Yosi and R' Shimon disagree and forbid drinking from such wine until after the *terumah* is actually separated, because they assert "אין ברירה" - there is no concept of retroactive clarification. These Tannaim are of

the opinion that it is not possible to make an undefined הפרשת תרומה and then designate the *terumah* at a later time.

There are two views in the Rishonim regarding the position of אין ברירה:
(a) When one declares that the two *lugim* that he will separate in the future should be *terumah* now, his declaration is meaningless and the produce remains in its original state of ***tevel***. [According to this opinion even a **Kohen** may not drink the wine since *tevel* is forbidden even to Kohanim.] This is the view of Tosfos (37b ד״ה אלא, first *p'shat*, and Tosfos in Gittin 73b, ד״ה תנא).
(b) Two *lugim* from the barrel indeed become *terumah* when the individual initially makes the declaration, and the wine is no longer *tevel* according to all Tannaim. Those who take the position אין ברירה are of the opinion that it is not possible to subsequently identify which part of the wine is *terumah*. One may not drink the wine because the two (unidentified) *lugim* of *terumah* are mixed with the rest of the wine and they cannot be retroactively identified. [According to this view only a Yisrael would be forbidden to drink the wine. A Kohen would be permitted to drink the wine because it is not *tevel* - it is *terumah* mixed with chullin, which a Kohen is permitted to drink. This is the view of the Mahari (cited by Tosfos) and Rashi in Chullin 14a, ד״ה אוסרין and Rashi in Gittin 73b).

2] The Gemara (37b) cites a dispute regarding one who places an *eruv* and stipulates that it should take effect on any Shabbos during the year that he decides to walk in the direction of the *eruv*. The Chachamim, being of the opinion אין ברירה, maintain that the *eruv* is only valid if he decides <u>prior</u> to Shabbos that he wants the *eruv* to take effect (because one's place of residence must be established prior to the onset of Shabbos). If one decides <u>on</u> Shabbos that he wants to use the *eruv* (to walk in that direction), the *eruv* is not effective because it <u>cannot</u> retroactively take effect from before Shabbos. (Therefore, the *techum* would be measured from the person's home rather than from the site of the *eruv*.)

The Kesones Passim[86] asks why according to the Mahari and Rashi's approach (see B above) should the conditional *eruv* be entirely invalid. If a person makes an *eruv* with such a stipulation, the Chachamim should deem it a ספק עירוב - an *eruv* in doubt - because there are two possible places of *shevisah* (either at home or at the *eruv* site) and there is no way to [retroactively] determine which place of *shevisah* is the proper one. Accordingly, the person's travel should be restricted to the area that is shared by both boundaries, i.e., the *techum* of his *eruv* and the *techum* of his house (חמר גמל, see Mishna 35a). The fact that the Chachamim invalidate the *eruv* and say that the person's place of *shevisah* is his home seems to indicate that (according to the opinion of אין ברירה) a declaration that requires subsequent clarification is entirely invalid.[87]

דף לח.
יו״ט הסמוך לשבת ב׳ קדושות הן

If Yom Tov falls on Friday there is an opinion that views the two-day period of Friday and Shabbos as one unit, as if it were one long day (קדושה אחת). Therefore, this opinion maintains that the site established prior to Yom Tov as one's place of *shevisah* for Yom Tov is automatically his place of *shevisah* for Shabbos as well (because one cannot change his place of *shevisah* in middle of the day).

The *halacha*,[88] however, follows the opinion that views Yom Tov and Shabbos as independent entities (ב׳ קדושות).

A leniency that emerges from this view is that if one needs to travel *westward* on Yom Tov, and *eastward* on Shabbos, he may place one *eruv* to the west of his city for Yom Tov, and another to the east for Shabbos. Since the two days are independent, one may establish a different *shevisah* site for each day.

On the other hand, there is a stringency that emerges with regard to one who wishes to utilize the same *eruv* for both days. Since

Shabbos and Yom Tov are independent entities, the *eruv* that was placed before Yom Tov must still be in existence on the eve of Shabbos (*bein hashmoshos*); otherwise it will not be effective for Shabbos.

In the event that the *eruv* was destroyed or removed prior to Shabbos, a new *eruv* must be established if one needs to walk past the *techum* on Shabbos. The Gemara says, however, that depositing a new *eruv* on Yom Tov for (the sake of) Shabbos is problematic because there is an *issur* called "הכנה" which states that one may not prepare for Shabbos on Yom Tov.[89] [Note: When Yom Tov falls on *Erev Shabbos*, cooking on Yom Tov for Shabbos is permitted by means of an *eruv tavshilin*.[90]]

The Gemara explains, however, that it is possible to reinstate the *eruv* (that was destroyed on Yom Tov) before Shabbos by means of עירוב ברגליו (*eruv* established by walking, see דף לז).

- An *eruv* established with bread (עירוב בפת) requires a verbal expression of intent to establish residency at the site of the *eruv*.
- In contrast, one who is מערב ברגליו need <u>not</u> verbally declare his intent to establish his residency at that site; mentally thinking about it is sufficient.

Establishing an עירוב בפת on Yom Tov that falls on *Erev Shabbos* is forbidden because **verbally** stating (on Yom Tov) that one intends to establish residency for Shabbos with the *eruv* is an act of הכנה (or one that resembles הכנה).

On the other hand, מערב ברגליו on Yom Tov (for the sake of Shabbos) is permitted. Since a verbal declaration is not required when one is מערב ברגליו it is not considered הכנה because there is no overt demonstration that he is making preparations for Shabbos.

The Rivah[91] maintains that, generally speaking, even עירוב ברגליו requires a verbal declaration because the intent of the מערב (maker of the *eruv*) must be evident. Only where there was an *eruv* in place the previous day (for the sake of Yom Tov) is one's mere presence sufficient indication of intent, because he is merely reinstating the site of a pre-existing *eruv*.[92]

The *Shul*chan Aruch,[93] as well as most Rishonim, are of the opinion that a מערב ברגליו never requires verbal declaration. They maintain that remaining at the site of the *eruv* is sufficient indication of one's intent [to establish *shevisah* at that site], regardless of whether he is establishing a new *eruv* or just reinstating an old one.

דף לט.

עירב בפת ביום א׳ מערב בפת ביום ב'

1] In some instances it is permitted to make a bread-*eruv* on Yom Tov for the sake of Shabbos without concern for הכנה (see above).

The braysoh states that if one made a bread-*eruv* on *Erev Yom Tov*, he may make a bread-*eruv* on *Erev Shabbos* as well. Shmuel qualifies this *halacha*, explaining that one may do so only if he uses the same bread that was used on the previous day. Rashi explains that if the bread used for the *eruv* of Yom Tov was destroyed and one uses new bread for Shabbos, the *eruv* would require verbal declaration, and as explained above, establishing an *eruv* on Yom Tov via verbal declaration is forbidden (הכנה). However, if the original bread is still intact, even if it was removed from the site for a period of time during Yom Tov, no verbal declaration is required when returning the bread to the *eruv* site since it is merely a reinstatement of the old *eruv*.

The Ritva[94] attaches an additional condition. He maintains that the requirement for a verbal declaration is waived (for a bread-*eruv* that is returned on *Erev Shabbos*) only if one expressly declared on *Erev Yom Tov* (i.e., Thursday, when the *eruv* was initially deposited) his intent to establish *shevisah* at that location for both days, for Yom Tov <u>and Shabbos</u>. However, if no such declaration was made on *Erev Yom Tov*, then one is required to make the declaration on *Erev Shabbos* when he returns the bread - even if it is the same bread that was used for Yom Tov.[95]

2] The Rashba (in his work, Avodas Hakodesh[96]) states that one who is מערב ברגליו

when Yom Tov falls on *Erev Shabbos* is <u>not</u> required to establish his place of *shevisah* at the same site as *Erev Yom Tov*. Since one who is מערב ברגליו does not require verbal declaration (even when establishing *shevisah* at a new site) there is no concern of הכנה. [As stated above, the consensus of most Rishonim (and the *Shul*chan Aruch) is that there is no need for a verbal declaration in all cases of מערב ברגליו even if one wants to establish a new *eruv*.] Moreover, even if there was no *eruv* made on *Erev Yom Tov*, one may establish an *eruv* on *Erev Shabbos* by means of מערב ברגליו, since it can be accomplished without a verbal declaration.

The Ritva[97] disagrees and maintains that even if a verbal declaration is not required, one may not establish an *eruv* on Yom Tov (for Shabbos) at a new site. Doing so constitutes הכנה since it grants permission to travel on Shabbos to a place that was previously prohibited.[98] Only re-establishing an *eruv* at the same site as the *eruv* from *Erev Yom Tov* is permitted.[99] ■

דף כא

1) [ז"ל רש"י ד"ה דשכיחי מיא - ולא הותרו פסי ביראות אלא למקום שצריכין מי גשמים לכסנן ולשתות מהן וכו', וצ"ע דהא קאמר שמואל בראש הדף דלא הותרו פסי ביראות אלא למים חיים בלבד, וע' רש"ש דנגע בזה].

2) ורש"י סוף דף כ: מדויק כדנקט תוס' בתי' ראשון דלא הותר פסי ביראות לאדם כלל (אפי' אם מעיקרא נעשה לצורך בהמה).

3) סימן ח' (הערות על עירובין) אות ב'.

4) ומכח הוכחה זו נשאר הקהל"י בצ"ע על שיטת רש"י דצ"ע למה עדיף שאר טילטולים לצורך בהמה מטילטול מים לצורך אדם עכתו"ד, אולם לכאו' יש להשיב על הוכחה זו לפי מה דמשמע ברש"י דף כ. ד"ה יבשו דב' שאלות של רבין הכל שאלה אחת, כלו' מהו אם יבשו מים בשבת ובאו אח"כ בו ביום (ע' חי' הר"ן), ולפי"ז ליכא שום הוכחה דמותר לטלטל שאר דברים (אולם בדברי אביי שם עדיין יש מקום לדיוק של הקהל"י).

דף כב

5) בפרק י"ז הלכה ל"ג פסק דהזורק מרה"ר לבין הפסין חייב אפי' אם רבים בוקעים בו.

6) וע' ברמב"ם שם ה"י שפסק דאין מערבין רה"ר שבקעין בה רבים אלא בדלתות, וע' בחי' הרשב"א לעיל דף ו: דכתב דאין דעתו לפסוק כר' יוחנן וע"ש בכס"מ ובמשכנ"י המובא לעיל בדף כ'.

7) ע' מג"א סימן שס"ג סק"ל שהבין דאתי רבים ומבטלי מחיצות המים היינו כשעוברין דרך המחיצות בספינות דרך הנמל, ולפי"ז צ"ל דגם האוקיינוס וסולמא דצור ודיגלת עוברים שם רבים תוך המחיצות, [וע' בחמד משה שם סק"ד (נזכר בשעה"צ שם ס"ק צ"ד) דס"ל דרבים הנמצאים תוך מקום המחיצות מבטלי המחיצות אפי' אם אינן עוברין ספינות דרך המחיצה, אולם צ"ע לפי"ז למה מהני לערב ירושלים בדלתות נעולות (לשיטת ר' יהודה) כיון שנמצאים רבים תוך העיר (אם לא שנאמר דשאני הכא דעכ"פ ראויין לעבור שם הרבים תמיד, משא"כ כשיש דלתות נעולות), וע' בקרן אורה ובחזו"א סימן קי"ז סק"א שנגעו בהערה זו, וע"ש שר"ל שיש ב' מיני רבים מבטלי מחיצות].

8) הל' שבת כלל מ"ט בנשמת אדם סק"ב, וע"ע בנשמת אדם כלל ע"א סק"ק י"א.

9) ע' ביאור הלכה סימן שמ"ו ס"א ד"ה קרפף מש"כ בשם הרמב"ן שיטה אחרת בזה דאין שיעור לריחוק מחיצות אלא במחיצות בידי שמים אבל מחיצות בידי אדם אין שיעור, וכן הוא לשון הטור ריש סימן שנ"ח שכ' אפי' מאה מילין שרי.

10) החת"ס או"ח סימן פ"ט הביא בשם הכנסת יחזקאל דשיעור ריחוק לדעת תוס' הוא בית סאתיים (והוכיח כן שיש שיעור ריחוק אפי' לתוס' מהא דמבואר בגמ' כאן מיד אח"כ דלדעת רבנו לא אתי רבים ומבטלי מחיצות של מעלות ומורדות בא"י כגון שבילי בית גלגול אע"פ שהן מחיצות בידי שמים), וגם הקר"א והחזו"א בסימן קי"ז סק"א נקטו כן (וע"ע בחזו"א סימן ק"ח סקי"א).

דף כג

11) כ"כ רש"י לקי' דף סז: ד"ה והם אמרו דגזרו חז"ל על קרפף משום דמיחלף ברה"ר, וכ' המשנ"ב שמ"ו ס"ק ט"ז דגזרו משום שגדול כ"כ אתי למחלף ברה"ר (וכ"כ בסימן שנח-ה בשם הלבוש), ואגב, מבואר בסוגיא בדף סז: דחז"ל שוויא קרפף ככרמלית אפי' לקולא ומותר לטלטל ממנו לכרמלית תוך ד' אמות.

12) סימן שנח-ב.

13) ריש סימן שנ"ח.

14) ובסופו הביא שכן מצדד בעל "אור חדש" (מובא בנוב"ת סימן מ"ז).

15) מבואר ברש"י שם כר' יהונתן שכ' דהרועה דר שם בלילה (וכ"כ בחי' המאירי במתני' ריש פירקין), והביא היד בנימין (דף יט:) שתמה הגאון מהר"ם אריק (וכן בספר שם משמעון על עירובין) על הנ"ב שכ' שלא מצא בשום פוסקים זולת ר' יהונתן שיפרש דבעינן שיהא בדיר דירה לרועה, וביד בנימין הוסיף שם שיש לתמוה על דברי הבה"ל שכ' דרש"י משמע שלא כר"י.

16) נוב"ת או"ח סימן מ"ז (קצת דבריו נזכר בביה"ל הנ"ל) וז"ל רצה מעלתו להתיר קרפף של חיות...שקורין "טיר גארטין" וכו' ולכאו' לא איירי בגן חיות (כמו היום) כשכל החיות מוקפות חומה והם ברשות בפנ"ע דבכה"ג המקום שהאנשים הולכים הוא רשות אחרת והוי כגן בעלמא ולכאו' חשוב כמו מקום אילנות שמבואר בדף כג: דלא בטלי שם דירה כיון שדרכן של בנ"א להסתופף בצילן.

17) שם.

18) ע' בדובב מישרים סי' ס"ה בענין אי חשיב בית החיים כמקום שהוקף לדירה.

דף כד 19) בשו"ע סימן שנ"ח סוף סע' י"א פסק דאיירי דוקא אם יש בעומקן י' טפחים, וע"ש בביה"ל ד"ה והוא שהביא חולקין, ומסיק דצריך עכ"פ עומק ג' טפחים לבטל שם דירה.

20) מהדורא קמא ח"ג סימן קל"א.

21) שו"ת פרי תבואה סימן מ"ג, והסכים עמו הדברי מלכיאל ח"ד סו"ס ג', וכ"כ הארחות חיים (סימן שנ"ח) בשם הנזירות שמשון, מובא בספר שערים מצויינים בהלכה על קצשו"ע סימן פ"ג סק"ד, ע"ש, וכן ראיתי בשם המאירי ובשם שו"ת מהר"י אסאד שכתבו דאם הזרעים והפרחים נעשמים לטיול לא חשיבי כקרפף שלא הוקף לדירה, וסימן לדבר בנאות דשא ירבציני, (ע' ספר "תפארת יעקב" על ד' מחיצות ח"ב סימן נ"ד).

22) סוף סימן ב', ולא כתב כן בהחלט אלא בדרך מסתברא (ונשאר בצ"ע), וע"ע תוס' דף כג. סוד"ה ובלבד שכ' דאולי יש לחלק בין חצר שתשמישו רב לקרפף שאין תשמישו רב.

23) ע' שער הציון סימן שנ"ח ס"ק ס"ז שהביא כן בשם הרשב"א בעבודת הקודש והריטב"א בדף כ"ג והר"ח בדף כ"ה והר"י מיגש בב"ב דף כ"ד.

24) סימן שנ"ח סעיף י' (ע"ש במשנ"ב ס"ק ע"ג).

25) סימן נ"ט (הביא כן משו"ת דבר שמואל), מובא בביאור הלכה סימן שנ"ח ס"ט ד"ה אבל אם נזרע.

26) ח"ד סימן ג' ד"ה והנראה בישוב זה.

27) וסברתו הוא דהיכא דנזרע אחר שהוקף אמרינן דמעשה הזריעה מבטל שם היקף לדירה (כיון שאין דרך לזרוע במקום דירה), אבל היכא שהיה מכבר גינה ועתה גודרה להדיא לשם דירה מהני מעשיו למשוי לי' הוקף לדירה (וע"ש בסוף התשובה בסוד"ה עכ"פ שמצדד שם דמותר לטלטל אפי' במקום הזרעים).

דף כה

28) ע' ביה"ל סימן שנ"ח ס"ו ד"ה באורך שמבאר הפלוגתא, וקיי"ל כהרא"ש (שם בשו"ע).

דף כז

29) בפירוש המשניות.

30) בשו"ת הלכות קטנות ח"ב סי' רפ"ב מצדד עפ"ז דאולי השותה מים ביוה"כ פטור מכרת כיון דאינן זניח כלל, ע' שו"ת מנחת אלעזר ח"ד סי' נ"ח שדחה דבריו וכן ע' שדי חמד מערכת יוה"כ ס"ג אות ז' בשם האחרונים.

31) ביאור הגר"א על שו"ע סימן שפ"ו ס"ק ט"ז.

32) בפי' המשנ' כאן.

33) והרמב"ם לשיטתו כתב בפ"ד מהל' דעות ריש הל' ט' דכמיהין ופטריות הם מאכלות הרעים ביותר וראוי לאדם שלא לאוכלן לעולם שהם סם המות לגוף.

34) לכאו' י"ל דס"ל להרמב"ם דאע"פ דכמיהין ופטריות חשיבי אוכל מ"מ לא חשיבי מידי דמיזן כיון שהן רעים להגוף.

35) וז"ל רש"י שם - שמואל חביבן עליו ארדיליא בקנוח סעודה והם כמיהין ופטריות, עכ"ל, ועוד הביא הגר"א מהא דחשיבי בעלמא עולה על שולחן מלכים (כ"כ הש"ך ביו"ד סימן קי"ג סק"ב בשם או"ה ותורת החטאת).

36) ע' בהגהות הגר"א כאן בגליון הגמ' אות א' שהוסיף תיבה "וכו'" בקושית הגמ' כאן וגרס - בכל מערבין ומשתי' חוץ ממים ומלח וכו', שקושית הגמ' אזיל על דין שני דמתני' דהיינו מע"ש ולא עירוב, וע"ע בהגי' ר' בצלאל רנשבורג.

37) פ"א פסקא ח' (בברייתא דרבי ישמעאל).

38) ע' תוס' כאן ד"ה מ"ד שנקט דכמיהין ופטריות נקנין בכסף מע"ש (שלא כהתוי"כ שהביא הגר"א), וע' רש"ש כאן שהביא שגם רש"י בב"ק דף ס"ג כתב כהגר"א דממעטינן מקרא דאין קונין כמיהין ופטריות בכסף מע"ש, וכ"כ הר"ח לקמן בדף כח.

דף כח

39) לעיל סוף דף כז. ד"ה כ"ש.

40) וכן משמע מסתימת השו"ע בהלכות יו"ט סימן תקכ"ה ס"א שכ' דצריך עירובי תחומין ביו"ט וכל הלכות תחומין נתבארו בהל' ער"ת עכ"ל, משמע שאין חילוק בין שבת ליו"ט.

דף כט

41) ע' רש"י כט. ד"ה חשיבי ובמשנ"ב סימן שפ"ו ס"ק ל"ז.

42) סימן שפ"ו ס"ז ד"ה מיהו.

43) ודע דבספר תיקון עירובין ח"ג פרק י' (סוף ס"ק קצ"א בבנין שלום) שמצדד דחשבינן כל סעודה מב' סעודות בפנ"ע וכו"ע מודו דיכול ליתן שתי אפרסקין וחצי שהוא שיעור סעודה אחת ורמון אחת לשיעור סעודה השניה, ולכאו' הדין עמו שכן מדויק בגמ' כאן "סבר רב יוסף למימר עד דאיכא סעודה מהאי וסעודה מהאי וכו'" משמע דחשבינן שיעור כל סעודה בפנ"ע, ודו"ק, (ולפי"ז הציור שנקטנו בפנים הוא לאו דוקא כיון שלכל סעודה וסעודה יש שיעור שלם).

44) והנה מבואר שם דמצטרפי יחד דוקא משום דראוין להצטרף יחד בענין אחר (והיינו דחזיא לדוגמא, ע"ש), וה"נ ראוין כל האוכלים להצטרף יחד בענין שיתופי מבואות דהיכא שליכא י"ח בנ"א דבעינן גרוגרת לכ"א (ע' לקמן פ:) וכל האוכלים שווין לענין זה, וע"ש שכ' דלא אתי שפיר אלא לדעת הרמב"ם שפסק בפ"א מהל' עירובין סוף הלכה י"א דגם לענין שיתופי מבואות אמרינן דכל האוכלין מצטרפין (ונשאר בצ"ע על הראב"ד שם, ע"ש).

דף ל 45) פרק כיצד משתתפין (פ"ח) ריש סימן ג' (כך הבין הב"י בסי' ת"ט וקר"נ על הרא"ש שם אות ק' את דברי הרא"ש, אולם ע"ש בתפא"ש אות ב' שהבין בדעת הרא"ש דדעתו לפסוק דמשערינן לחולה בסעודה בינונית של כל אדם).

46) [מבואר דאפי' רבנן מודו דאיש בינוני צריך מזון ב' סעודות בינונית וכן קי"ל בשו"ע, וצע"ק לשיטת רבנן למה לא סגי לאיש בינוני בשיעור קטן של ב' סעודות לחולה כיון דחזי לחולה (ואע"פ דחולים אינן אלא מיעוטא דעלמא מ"מ) הרי מצינו דאמרינן דמערבין בתרומה כיון דחזי לכהן וכן מבואר בתוס' לקמן סוף לא. דמערבין בדמאי כיון דחזי לעניים אע"פ שהן רק מיעוט דעלמא, וא"ל דשיעור סעודה שאני ולכו"ע בעינן חזי לדידיה דוקא שהרי מבואר בהו"א הגמ' דהטעם דסגי לרעבתן בסעודה בינונית הוא משום דחזי לאחריני].

47) סימן ת"ט ס"ק י"א (והוא על פי תוס' ד"ה תרגומא, וכדמבואר לקמן).

דף לא

48) ביבמות שם (וכן לעיל סוף דף ל.).

49) לעיל ריש דף ל:.

50) וע' ברשב"א שהק' קושיא זו ותירץ דשאני טבל שהוא איסור חפצה משא"כ יו"כ אינו אלא איסור היום דרביע עליה, וע' ריטב"א שהק' ע"ז דא"כ האיך מערבין לישראל בתרומה ולנזיר ביין, וע' בהגי' שם על חי' הרשב"א וריטב"א (דפוס מוסד הר"ק) מה שהביא בשם אחרונים.

51) ע' קהל"י סימן ט' דכשמאכיל לאדם לא חשוב הנאה של כילוי.

דף לב

52) כן דעת ר"ת בתוס' כאן וכן פסק הרמב"ם בפ"ד מהל' תרומות ה"ו (וע"ש במשל"מ), וכן דעת המחבר בשו"ע יו"ד סימן של"א סעיף ל"ד (אולם הרמ"א שם הביא דעת הרא"ש שחולק) וע' משנ"ב סימן ת"ט סק"נ ושעה"צ שם שהביא השיטות בזה.

53) כאן על מסכת עירובין, סוף דף לא:.

54) (להגי' ר' משה שטרנבוך) ח"ב או"ח סימן רי"ח.

55) סידור הגר"ז.

56) השמ"ב סמך עצמו על מש"כ הש"ך ביו"ד סימן קי"ט סק"ט (בענין דלא חיישינן שהשליח מורה היתר לעצמו כשמקבל שכר), והתשובות והנהגות סמך על מש"כ הש"ך שליח במקום סק"ה (בענין שליח שתפס חוב במקום שחב לאחריני דאם שכרו בשכר שאני) [ולכאו' יש מקום להשיב על הדמיון לנדון דידן, ואכמ"ל].

57) וכ' השמ"ב דעוד יש לתרץ דהרב דומה לבית דין, וקי"ל (ע' להלן במכילתין) דעל ב"ד סמכינן לכו"ע אפי' בדאו' דחזקה שאין ב"ד מתעצלין.

דף לג

58) דגזרו חז"ל שלא להשתמש באילן דילמא יעלה ויתלוש, וע' חי' הרשב"א כאן שהק' דמאי תשמיש איכא בנטילה, וע' ריטב"א שתי' דגזרו נמי על הנטילה משום דזמנין דכי שקיל ליה נותן גופו על האילן, וכן פסק הרמ"א בשו"ע סימן של"ו ס"א בשם המ"מ הל' שבת פכ"א ה"ט (ע"ש במג"א ובמשנ"ב), וע"ע מש"כ בחי' הר"ן.

59) כלו' אפי' אי דעתו לשבות במקום עירובו, והוי הוא ועירובו במקום אחד, מ"מ כיון שא"א להגיע אליו בשבת פסול (כן מבואר בתוס' לב: ד"ה מה לי) ולכאו' סיבת הפסול בכה"ג הוא משום דעירוב לא חזי ליה, וכן מדויק ברש"י לקמן סוף ל: דפסלינן עירוב של כהן בבית הקברות משום דלא חזי ליה (וממילא כתב דלרבנן דסומכוס אינו פסול כיון דחזי לאחריני (וע' בהגי' ר' שס"ב על חי' המאירי סימן ו' שכ' דפליגי רש"י ותוס' בזה), אולם ע' לקמן סוף דף לד: בענין נתנו במגדל ואבד המפתח שנקט הגמ' דאי א"א להגיע לעירוב פסול משום "הוא במקום אחד ועירובו במקום אחר" ע"ש ברש"י, ועדיין צ"ע.

60) פ"ו מהלכות עירובין ה"ט.

61) וכן פסק בפרק כ"ד מהל' שבת ה"י, דדברים האסורים משום שבות מותרים בין השמשות כשהם לצורך מצוה או דוחק, וכן קי"ל בשו"ע בסימן שמ"ב.

62) וע' בסוף סימן רס"א דקי"ל דאחר קבלת שבת (דציבור) אסור בכל שבותים (אפי' אלו שמותרים בין השמשות, ומצדד הספר תיקון הל' עירובין, דאולי לא מהני בעירוב באילן וכדומה אם נוהגין הציבור לקבל שבת קודם בין השמשות כיון שא"א ליטול עירובו מהאילן בכה"ג.

63) מובא בחי' הרשב"א דף לג: באד"ה וסבר, ובחי' הריטב"א דף לב: ד"ה והא.

64) [אולי יש לבאר זאת ע"פ הנתיבות הידוע (בסימן רל"ד דמשמע דאיסורי דרבנן אינן אלא איסור למרוד בדבריהם אבל אינן איסור חפצא בעצם (ולכך לא צריך כפרה אם עבר בשוגג) ולכך עירוב באילן מיקרי "חזיא ליה" אע"ג שיש איסור דרבנן לעלות באילן בשבת.]

דף לד 65) שפת אמת שהק' דעיקר תירוץ חסר מן הספר דלכאו' גזירת שמא יקטום ידענן מעיקרא (דאל"ה לכו"ע היה מותר לעלות ולהשתמש בקנה ולהניח עירובו שם), ע"ש שמבאר תי' הגמ' קצת באופן אחר (ושלא כרש"י).

66) סימן ת"ט ס"ג ד"ה ויתחייב, וז"ל - לפירש"י צ"ל דכיון דעצם המלאכה יש בו חיוב חטאת וקרוב שיעשנו גזרו בו אף שיעשה שלא במתכוין, עכ"ל.

67) אע"ג דבעלמא כל שאינו פסיק רישא ממש מותר [ולא עוד אלא דשיטת הערוך דאפי' פסיק רישא ממש מותר כ"ז דלא ניחא ליה, ולכאו' כ"ש הכא שאינו אלא קרוב לודאי דמותר, אולם כעין איסור זו מצינו ברמ"א (בשם הב"י בשם סה"ת) בסימן של"ו סו"ס ג' דטוב שלא לאכול בגנות אם ישתמש שם במים דבקושי יש ליזהר שלא יפלו שם מים.

68) וצ"ל דחמור גזירה זו משאר איסורי דרבנן ומודה רבי דאסרו חז"ל ליטול עירבו מע"ג קנה אפי' בבין השמשות.

דף לה 69) ע' שו"ע סימן שצ"ד סעיף ג' (בעינן עירובי חצרות).

70) ע' שו"ת שבט הלוי ח"ו סו"ס מ"ד שחקר לענין עירוב המונח בקופסא שמירה שא"א במציאות לפותחו בלי מפתח (והמפתח לא נמצא שם במקומו).

71) כך פסק המג"א סימן ת"ט סק"ו ע"פ תוס' דלא אמרינן ששייך להביא המפתח פחות פחות מד' אמות דהוי קרוב לאיסור דאורייתא.

72) בהגהות על הרי"ף לעיל לד.

73) או"ח סימן י"ד ענף ו'.

74) וכעין זה כתב גם התפארת ישראל כאן פ"ג מ"ג אות כ"ח, וכן הערוה"ש סימן ת"ט ס"ב, דצריך שיהא שייך להגיע לעירוב ע"י עצמו בלי סיוע העכו"ם, וע"ע בחי' הריטב"א כאן דף לה. ד"ה בשדה שכ' דאין העירוב כשר אא"כ יכול ליטלו בעצמו ושלא ע"י חבירו (אולם מחלק שם בין העירוב להמפתח, וממילא לענין מפתח עדיין הקושיא במקומו עומדת).

75) הרמב"ם פ"א מהל' עירובין הכ"ב, ושו"ע סימן שצ"ד סעיף ב' וג'.

76) וע"ש בב"י שמבאר דאע"פ דמערבין עירובי חצרות אפי' שלא לצורך מצוה מ"מ חשוב כצורך מצוה כיון שבלי עירובי חצרות יבא לטלטל באיסור וממילא אפי' בנוגע לעירובי חצרות אמרינן דלא גזרו על שבות בבין השמשות.

77) ואם הבעה"ב שובת באותו עיר יש מקום להקל כיון דלהרבה פוסקים קי"ל שאין לנו רה"י דאו' בזה"ז, אבל כששובת בעיר אחרת מא"ל (וע"ע שם מה שהביא בשם שו"ת האלף לך שלמה סימן קפ"ב דנקט דהיכא דמצוי עכו"ם ושייך להגיע אל העירוב על ידי עכו"ם שפיר דמי).

78) מהד"ת או"ח סימן ל"ט.

79) ח"ג סי' י"א ס"ק י"ח בבנין שלום (וע' לעיל מה שציינו בשם שו"ת שבט הלוי).

80) שם ס"ק ל"ו.

81) אולם לכאו' תשובתו בצידו שהרי בנידון זה מוכח מהא דמניח עירובו שם (אע"פ שהוא של כדין) דאינו יראה להלך שם משא"כ הנו"ב איירי באופן שהעירוב כבר מונח שם מקדם ועכשיו פחד מלכות עליהם ויראים לבא אצל עירובם, ע"ש.

דף לו 82) פרק כ"ז מהל' שבת ה"א.

83) שם במלחמות ובחידושיו (בדף יז:).

84) אולם ע' חי' הרמב"ן שם שר"ל דלדעת הירושלמי מהני עירוב להתירו לילך עוד י"ב מיל מדאורייתא, וע' דברי יחזקאל ח"א סימן ז' ענף ד'.

85) וע"ע שם ובחי' הריטב"א שתי' בשם הראב"ד דשאני ספק עירוב מטומאה משום דתחום דאו' של י"ב מיל רחוק הרבה מתחום אלפיים אמה וליכא למיחש שיחליפו זב"ז.

דף לז

86) (להגרי"ם בריסק) סוף ב"ק אות ה', מובא בקהל"י סי' י"ד סוף סק"א.

87) ע"ש מה שתירץ, ומה שמאריך בזה הקהל"י הנ"ל.

דף לח

88) או"ח סימן תט"ז ס"א.

89) ואפי' למ"ד דס"ל דתחילת היום קונה עירוב וה"ל שבת מכין לעצמו מ"מ אסרינן לערב ע"י אמירה [הנה גרסינן בביצה יז. דאין מניחין עירובי תחומין מיום טוב לחבירו משום דאין קונין שביתה ביו"ט, ע' לח. תוד"ה ורבי אליעזר, ושם בתוס' ד"ה מאי טעמא, וע"ע בחי' הרשב"א כאן בדף לח. ולח:].

90) ולרבה דס"ל דצרכי שבת אין נעשין ביו"ט מן התורה הא דמותר לאפות משבת ליו"ט הוא משום הואיל כדאיתא בביצה כא: (ע' ריטב"א לח: ד"ה אמר רבה).

91) מובא בריטב"א לח: בד"ה א"ל מי סברת.

92) וצע"ק שהרי קאמר הגמ' ריש דף לט. ד"לאו מוכחא מילתא היא" דהולך שם לצורך עירוב, וא"כ האיך קאמר הריב"א דכיון דכבר עירב שם בראשון כשמערב שם ברגליו ביום שני "איכא גלוי דעת שרוצה לקנות שם שביתה", וי"ל.

93) סימן ת"ט ס"ז (וכן נראה מסתימת הראשונים).

דף לט

94) לעיל דף לח. ד"ה נוטלו.

95) ומסתימת הפוסקים (והראשונים) משמע דלא ס"ל כן (ובספר תיקון עירובין ח"ג פרק י"ב ס"ק נ"ד שמצדד דלא איירי הריטב"א אלא באוקמתא דגמ' שנטל הפת ממקומו בליל ראשון ואח"כ מחזירו לשם דכיון שיש הנחה חדשה צריך אמירה אא"כ התנה להדיא מאתמול, אבל אולי אם נשאר עירובו שם לכל היום מודה הריטב"א דלא בעינן אמירה וסגי במחשבה לחוד ביום שני).

96) עבודת הקודש שער ה' סימן י"ח (ובחידושי הרשב"א לא כתב כן, ע' לקמיה) [וע' מהרש"א שכ' דאפי' כשמערב בפת אם מערב באותו פת מאתמול מותר לערב אפי' לרוח אחרת].

97) ריש דף לח., וכ"כ בחי' הר"ן והרשב"א שם (וסותר מש"כ בעבודת הקודש המובא לעיל).

98) ע' שער הציון סימן תט"ז סק"ט שהוסיף דאסור גם משום מיקני שביתה ביו"ט (וע' לעיל בהערות).

99) וכן פסק הפרמ"ג סימן תט"ז מש"ז סק"א, והמשנ"ב שם ס"ק י"ז הביא ב' דעות (בענין מערב לרוח אחרת) ובשעה"צ באות י"א דעתו נוטה להחמיר, ובמשנ"ב שם ס"ק ט"ז כתב למילתא דפשיטא דאם לא עירב בערב יו"ט אין לערב בערב שבת אפי' ברגליו (ולא הביא שם חולק ע"ז, וצע"ק)

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יום		**This Al Hadaf was made possible by the following daf dedications...**	דף
Wed Oct 26	שמחת תורה	לז״נ שיינדל בת ישראל ז״ל *	כא
Th	כד תשרי		כב
Fri	כה תשרי		כג
שבת	כו תשרי		כד
Sun	כז תשרי		כה
Mon	כח תשרי	לז״נ מרת הינדא בת ר׳ מרדכי הכהן Berkovitz ז״ל * (נפטר כ״ח תשרי תשמ״ז)	כו
Tue	כט תשרי	* לז״נ שמעון בן שלמה זלמן ז״ל	כז
Wed	ל תשרי	* MAX POPKIN לז״נ מרדכי ב״ר משה פפקין ז״ל ; by Rabbi & Mrs. Jonah Weinberg	כח
Th	א חשון		כט
Fri	ב חשון		ל
שבת Nov 5	ג חשון	* לז״נ מרדכי בן פנחס טשרנפסקי ז״ל * לז״נ יוסף חיים בן שלמה ז״ל; In memory of my father JOSEPH ROBINSON - by Soral Simon * לז״נ אפרים בן מאיר יוסף ז״ל	לא
Sun	ד חשון	* הונצח ע״י שלמה יהודה ברריינער לז״נ אבי מורי מיכאל בן שלמה יהודה ז״ל	לב
Mon	ה חשון	* MIRIAM HIRSCH לז״נ אמנו מרים בת מיכאל ז״ל ; by her children	לג
Tue	ו חשון	* ז״ל לז״נ אלתר חיים בנימין בן משה	לד
Wed	ז חשון		לה
Th Nov 10	ח חשון	* In memory of our beloved sister JUDITH M YELLIN on her 11th Yartzeit - by Moshe & Dina Fuksbrumer	לו
Fri	ט חשון	* ז״ל לז״נ אבי מורי שמעון משה בן יהודה Dienstag	לז
שבת	י חשון	לז״נ אפרים בן משה אהרן ז״ל *	לח
Sun	יא חשון	* לע״נ שמואל אהרן בן נחמן זאב ז״ל	לט

* denotes *Yartzeit*

See Dedication and back-issue form on Page 19

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